

IN THE UNITED STATES DISTRICT COURT  
FOR THE WESTERN DISTRICT OF OKLAHOMA

MONTELL LAMONTE FISHER, )  
                                )  
                                )  
Plaintiff,                 )  
                                )  
vs.                           ) Case Number CIV-08-559-C  
                                )  
                                )  
RICK PARIS and RANDY MATTHEWS, )  
                                )  
                                )  
Defendants.                 )

**ORDER ADOPTING REPORT AND RECOMMENDATION**

Plaintiff filed the present action pursuant to 42 U.S.C. § 1983, alleging various violations of his constitutional rights. Consistent with the provisions of 28 U.S.C. § 636, this matter was referred to Magistrate Judge Valerie Couch. Considering Defendants' Motion to Dismiss/Motion for Summary Judgment, Judge Couch determined that judgment in favor of Defendants should be entered on Plaintiff's Fourth Amendment claim and Plaintiff's Fourteenth Amendment claim should be dismissed without prejudice. Judge Couch then issued a Report and Recommendation ("R&R") wherein she tendered these recommendations to the Court. Plaintiff timely filed a response to the R&R. However, in that response, Plaintiff does not raise any objections to the R&R, but requests the Court dismiss his case so that he may pursue his claims in state court.

The Court finds dismissal as requested by Plaintiff inappropriate. Judge Couch has set forth a well reasoned basis for entering judgment on the Fourth Amendment claims and Plaintiff offers no basis to reject that determination. As for the Fourteenth Amendment

claim, as Judge Couch notes in the R&R, Plaintiff has failed to plead facts establishing a claim for relief.

Accordingly, upon review of the R&R and Plaintiff's response thereto, the Court finds the thorough and well-reasoned R&R (Dkt No. 30) should be and hereby is ADOPTED in full. Plaintiff's Motion to Dismiss, (Dkt. No. 31) is DENIED. Defendants are entitled to Judgment on Plaintiff's Fourth Amendment claims. Plaintiff's Fourteenth Amendment claims are DISMISSED without prejudice. A judgment shall enter accordingly.

IT IS SO ORDERED this 11th day of February, 2009.



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ROBIN J. CAUTHRON  
United States District Judge